

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

4

DECISION

TOPIC **Amendment to the Agreement Between DNR and the Iowa Department of Agriculture and Land Stewardship for the Implementation of Clean Water State Revolving Fund Non-Point Source Programs**

Recommendation:

Commission approval is requested for an amendment to the agreement between DNR and the Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation (DSC). The original agreement, which was approved by the Commission in June 2007, covered the Local Water Protection Program and storm water best management practices. The proposed amendment would add duties relating to the Livestock Water Quality (LWQ) Facilities program and extend the agreement for an additional year.

The agreement began on July 1, 2007 and would terminate on June 30, 2010 if the amendment is approved.

Funding Source:

The funding for this agreement comes from the administrative accounts of the Clean Water State Revolving Fund (CWSRF). A cost savings of approximately \$50,000 per year will be achieved by eliminating the current LWQ program agreement with the Iowa Agricultural Development Authority (IADA) and transferring the LWQ program to DSC.

Background:

The Livestock Water Quality Facilities program is one of four non-point source loan programs funded through the CWSRF. The program was started in 2005 with a pass-through loan agreement with IADA. The intent was for the SRF to provide funds to IADA with which to make direct loans to livestock producers. IADA was unable to make this approach work because it could not achieve a loan position that ensured repayment. IADA abandoned the pass-through lender role and began to arrange linked deposit loans through participating local lenders.

In 2006, a new agreement was enacted between DNR, IADA, and the Iowa Finance Authority (IFA) to reflect the new financing arrangement. IADA's role was to work with borrowers to complete applications and work with lenders and IFA to approve final loan amounts. DNR continued to provide technical project approval based on information provided by the applicants and IADA.

The IADA agreement expired June 30, 2008. During the spring of 2008, DNR explored the options of renewing the IADA agreement, or transferring the program to DSC. The decision was made to amend the DSC agreement to include the implementation of the LWQ program based on the following:

- DSC is highly successful in implementing the Local Water Protection Program through the involvement of the local Soil and Water Conservation Districts (SWCDs).
- Many of the LWQ projects are designed and/or approved through the Natural Resources Conservation Service staff in local SWCDs.
- Audiences for the two programs often overlap.
- Program participants and lenders have been confused over having to deal with two different program processes and different agencies for applications and approvals.

Purpose:

The amendment to the DSC agreement adds the LWQ program to the work that DSC is already doing on the Local Water Protection Program, including:

- Working with the SWCDs to implement the program;
- Incorporating LWQ projects into a joint application form;
- Coordinating with DNR AFO staff on practice and project eligibility;
- Working with lenders to approve final loan amounts; and
- Maintaining a web site and point of contact for program information.

Patti Cale-Finnegan
Water Quality Bureau
June 16, 2008

AMENDMENT TO THE AGREEMENT
Local Water Protection Program and Storm Water Best Management Practice Loans

between the
IOWA DEPARTMENT OF NATURAL RESOURCES
and
IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP, DIVISION OF SOIL CONSERVATION

Whereas under Section 5.3 in the Agreement titled *Local Water Protection Program and Storm Water Best Management Practices* between the Iowa Department of Natural Resources (DNR) and the Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation (DSC) , the agreement may be amended in writing by mutual consent of the parties;

Therefore, the purpose of this amendment is to revise the scope of work to include the performance of duties relating to the Livestock Water Quality Facilities program. All parts of the contract not amended below shall continue to be in force throughout the Time of Performance. Deletions to the original Contract are marked herein by striking through the ~~text to be deleted~~, and additions to the original Contract are marked with underlining of the text to be added.

ITEM 1.

2.1 Background. According to the provisions of 567 Iowa Administrative Code 90.1, DNR has jurisdiction over the surface water and groundwater of the state to prevent, abate and control pollution. As a part of that general responsibility, the department and the Iowa Finance Authority are jointly designated to administer the Clean Water State Revolving Fund (CWSRF) pursuant to Iowa Code sections 455B.291 to 455B.299 and the federal Clean Water Act. 567 Iowa Administrative Code chapters 90 through 93 contain DNR's rules relating to this program. The local water protection set-aside program, the livestock water quality facilities set-aside, and the general non-point source set-aside program have been created pursuant to the provisions of 567 Iowa Administrative Code chapter 93 and 265 Iowa Administrative Code chapter 26. The responsibilities of the Iowa Finance Authority and DNR with respect to this program are set out in a separate Iowa Code chapter 28E Agreement.

The purpose of the local water protection set-aside program, the livestock water quality facilities set-aside program, and the general non-point source set-aside program is to provide technical and financial assistance to persons wishing to implement water quality improvements. Pursuant to the provisions of 567 Iowa Administrative Code 93.6(1), the CWSRF shall provide for local water protection assistance in the form of low-interest loans. Pursuant to the provisions of 567 Iowa Administrative Code 93.5(1), assistance under the CWSRF shall be in the form of low-interest loans made by participating lending institutions or in other manners as specified in an agreement with a pass-through loan recipient. Additionally, pursuant to the provisions of 567 Iowa Administrative Code 93.7(1), the CWSRF shall provide for storm water Best Management Practices (BMP) assistance through the general non-point source program in the form of low-interest loans. According to the provisions of Iowa Code section 161A.4(4), DSC shall assist soil and water conservation districts to disseminate information throughout the state and to assist in the development of soil and water conservation district plans to preserve and protect the public interest in the soil and water resources of the state and to preserve water quality in the state. DSC has agreed to assist DNR in the implementation of the CWSRF loan programs described above.

DNR and DSC have partnered in this effort for the past two years, and during that time more than \$7 million has been issued in loans for soil, sediment, and nutrient control practices. This agreement also will add new duties for DSC to develop, promote, and administer loans for post-construction storm water runoff control BMPs and to administer loans for manure management practices under the livestock water quality facilities program, as well as continuing its previous duties in assisting in the administration of the local water protection program.

ITEM 2.

2.2 Purpose. The parties have entered into this agreement for the purpose of setting out the respective responsibilities of DNR and DSC regarding administration of the local water protection, the livestock water quality facilities, and the storm water BMP loan programs.

ITEM 3.

3.1 Term of Contract. The term of this contract shall be July 1, 2007, through June 30, ~~2009~~2010, unless terminated earlier in accordance with the Termination section of this contract.

ITEM 4.

5.1 Statement of Work.

DSC shall perform the following Tasks:

- Promote the use of the Local Water Protection Program and the Livestock Water Quality Facilities Program in all ninety-nine counties and with all 100 soil and water conservation districts.
- Inform soil and water conservation districts that the Local Water Protection Program and the Livestock Water Quality Facilities program ~~is~~ are to be used for projects that protect or improve water quality.
- Provide education and information to all soil and water conservation districts as to how the Local Water Protection Program and the Livestock Water Quality Facilities Program works.
- Coordinate with DNR field office staff on determination of eligibility of applicants and practices.
- Provide assistance to all soil and water conservation districts in determining eligibility of applicants, practices, and project expenditures.
- Provide education and information to all soil and water conservation districts as to how the Storm water BMP assistance works.
- Provide written guidance to soil and water conservation districts as to the amount of funds available each year and how to score projects using the criteria rating system.
- Maintain application forms for the soil and water conservation districts to use for the Local Water Protection Program, the Livestock Water Quality Facilities Program, and Storm water BMP assistance. Application forms shall include critical information to assist determination of eligibility, scoring, initial approval, final inspection and reporting. Application forms shall be formatted to be compatible with electronic filing and reporting.
- Maintain a computerized reporting process with all soil and water conservation districts.
- Promote the use of SRF set aside funds in watersheds where Total Maximum Daily Load plans have been developed.
- Provide to DNR, by March 15 of each year, an estimate and recommendation for an amount of funds that should be placed in the Local Water Protection Program set aside of the CWSRF Intended Use Plan. The estimate shall be based on reasonable expectations of the number of projects and the interest of the Soil and Water Conservation Districts.

- Provide to DNR, by March 15 of each year, an estimate and recommendation for an amount of funds that should be placed in the Livestock Water Quality Facilities Program set aside of the CWSRF Intended Use Plan. The estimate shall be based on reasonable expectations of the number of projects and the interest of the Soil and Water Conservation Districts.
- Provide to DNR, by March 15 of each year, an estimate and recommendation for an amount of funds that should be placed in the General Non-Point Source Program set-aside for storm water BMP assistance. The estimate shall be based on reasonable expectations of the number of projects and the interest of the Soil and Water Conservation Districts.
- Maintain promotional material that:
 - Explains the Local Water Protection Program and Livestock Water Quality Facilities Program and examples of the practices and uses that can be implemented;
 - Explains how animal feeding operation, dairies and other livestock operations needing water pollution control facilities can use the Local Water Protection Program and Livestock Water Quality Facilities Program; and
 - Explains how urban watershed projects can use the storm water BMP assistance.
- Cooperate with DNR and the Iowa Finance Authority in developing all promotional materials. The promotional statements shall include a statement that the source of funding is the CWSRF.
- Coordinate with the participating lenders and the Iowa Finance Authority to resolve problems, improve loan processing, answer questions, improve reporting to DNR, and improve transfer of funds.
- Participate in watershed planning efforts and promote the use of CWSRF set- aside funds in watersheds where plans have been developed and are being implemented.
- Submit monthly reports to DNR containing the following information, as well as information containing the status of each of the DSC responsibilities listed herein.
 - Number of projects that Soil and Water Conservation Districts have approved for set-aside use during the previous month
 - Total dollar amount of loans approved during the previous month
 - Number of projects that have been constructed and received final inspection during the previous month
 - Number of projects needing final inspection
 - Category of projects approved during the previous month
 - Number of projects located in watersheds of impaired waters
 - Amount of pollutants projects have kept from reaching Iowa waters
- Provide to the DNR, by August 1 of each year, an annual report summarizing all activities conducted according to the provisions of this contract for each state fiscal year (July 1 to June 30). The report shall (1) include an evaluation of the CWSRF set aside, (2) identify the aspects of the program that are accomplishing the purposes of the program, (3) identify aspects of the program that are not successful and include information regarding the lack of success, and (4) make suggestions for improving the CWSRF set aside and its administration.
- Provide DNR with a single point of contact for coordination of activities in relation to the Local Water Protection, Livestock Water Quality Facilities, and stormwater BMPs programs.

DNR shall perform the following tasks:

- Reimburse DSC for its work under this contract from the administration account of the CWSRF. The amount of reimbursement to occur is set out in the Compensation section of this contract.

- Develop the CWSRF Intended Use Plan that provides for a set-aside amount for the Local Water Protection Program, the Livestock Water Quality Facilities Program, and the General Non-Point Source program on an annual basis, with quarterly updates as needed.
- Provide DSC with a single point of contact in the CWSRF program for coordination of activities related to the set-aside programs.
- Work with DSC to resolve issues concerning project or applicant eligibility.
- Develop and maintain a public website pointing potential applicants to the DSC website.
- Consult with and consider the input of DSC regarding proposed changes to the program.
- Make agreed upon changes to program rules, procedures, and implementation.

ITEM 5.

6.2 Status Reports. Prior to each monthly review meeting, each Project Manager shall submit to DNR in writing a monthly report as described in the Statement of Work. Monthly reports shall be due each month beginning July 15, 2007. The final monthly report shall be due June 30, 2009~~2010~~.

Written annual reports, as described in the Statement of Work, shall be submitted to DNR by August 1, 2007~~2008~~; and August 1, 2008~~2009~~, and August 1, 2010.

Reports containing recommendations for a set-aside amount for the upcoming year shall be submitted to DNR by March 15, 2008; and March 15, 2009, and March 15, 2010.

ITEM 6.

7.2 Not-to-exceed total amount of contract. Payment for the work performed by DSC according to the terms of this contract shall not exceed ~~\$224,140.00~~ \$408,863.00. The budget shall not exceed \$107,760.00 for state fiscal year 2008, and the budget shall not exceed \$116,380.00~~\$147,298.00~~ for state fiscal year 2009, and the budget shall not exceed \$153,805.00 for state fiscal year 2010. Unexpended funds from one state fiscal year shall not be carried forward by DSC to any other state fiscal year.

ITEM 7.

7.4 Budget. The budget for this contract for state fiscal year 2008 shall be as follows:

Item	Amount
DSC Project Coordinator salary and benefits	Not to exceed \$68,610.00
Support Staff	Not to exceed \$9,000.00
Travel and Training	Not to exceed \$8,000.00
Supplies	Not to exceed \$4,500.00
Indirect charges	Not to exceed \$17,650.00
Total	Not to exceed \$107,760.00

The budget for this contract for state fiscal year 2009 shall be as follows:

Item	Amount
DSC Project Coordinator salary and benefits	Not to exceed \$74,430.00
Support Staff	Not to exceed \$9,500.00 \$30,000.00
Travel and Training	Not to exceed \$8,500.00 \$10,000.00
Supplies	Not to exceed \$5,000.00 \$6,000.00

Indirect charges	Not to exceed \$18,950.00 <u>\$26,868.00</u>
Total	Not to exceed \$116,380.00 <u>\$147,298.00</u>

The budget for this contract for state fiscal year 2010 shall be as follows:

Item	Amount
DSC Project Coordinator salary and benefits	Not to exceed \$80,000
Support Staff	Not to exceed \$32,250
Travel and Training	Not to exceed \$7,500
Supplies	Not to exceed \$6,000
Indirect charges	Not to exceed \$28,055
Total	Not to exceed <u>\$153,805</u>

The combined budget for state fiscal years 2008 and ~~2009~~ - 2010 is as follows:

Item	Amount
DSC Project Coordinator salary and benefits	Not to exceed \$143,040.00 <u>\$223,040.00</u>
Support Staff	Not to exceed \$18,500.00 <u>\$71,250.00</u>
Travel and Training	Not to exceed \$16,500.00 <u>\$25,500.00</u>
Supplies	Not to exceed \$9,500.00 <u>\$16,500.00</u>
Indirect charges	Not to exceed \$36,600.00 <u>\$72,573.00</u>
Total	Not to exceed \$224,140.00 <u>\$408,863.00</u>

IN WITNESS THEREOF, the parties hereto have executed this Amendment on the day and year last specified below.

IOWA DEPARTMENT OF NATURAL RESOURCES

By: _____
Richard A. Leopold, Director

Date

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

By: _____
Karey Claghorn, Deputy Secretary of Agriculture

Date